



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, 3rd floor
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November 18, 2019

BY ECF

Honorable Sarah L. Cave
United States Magistrate Judge
United States District Court
500 Pearl Street
New York, New York 10007

Re: Carmen Serrano v. Commissioner of Social Security
18 Civ. 11543 (GBD) (SLC)

Dear Judge Cave:

We submit this letter in brief reply to the letter filed by plaintiff, who is proceeding *pro se*, opposing the Commissioner's motion to dismiss this Social Security case as untimely.

In her letter, plaintiff states that the reason she filed her complaint late is that she is taking medication for major depression and social anxiety disorder, and that she often withdraws. ECF Doc. #22, at 1. We forwarded plaintiff's letter to the Social Security Administration's Appeals Council for their consideration. Considering plaintiff's alleged mental impairment, the Appeals Council issued an order extending the time for plaintiff to file a complaint to the date it was filed pursuant to the Commissioner's authority under 42 U.S.C. § 405(g) (sent. 1) ("Any individual . . . may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow"); *see* 20 C.F.R. § 416.1482 (Appeals Council may extend time to file civil action "[i]f you show that you had good cause for missing the deadline"). We therefore withdraw our motion to dismiss the complaint as untimely.

To proceed with this case we have asked the Social Security Administration to prepare an administrative record. Consistent with the Standing Order for Social Security cases [ECF Doc #3], we expect the record to be available within 90 days, or by February 18, 2020. We would then propose that consideration of the merits of this case could proceed pursuant to the Standing Order, with the Commissioner's motion due 60 days thereafter, or by April 20, 2020, plaintiff's opposition due 60 days later, or by June 19, 2020, and the Commissioner's reply, if any, 21 days later, or by July 20, 2020.

We appreciate the Court's consideration of this matter.

Respectfully,

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Defendant's request to withdraw its motion to dismiss the complaint as untimely (ECF No. 23) is **GRANTED**. Consistent with the Standing Order for Social Security Cases (see ECF No. 3), Defendant shall file the certified transcript of the administrative record by **Tuesday, February 18, 2019**. Defendant's motion for judgment on the pleadings is due by **Monday, April 20, 2020**. Plaintiff's opposition is due by **Friday, June 19, 2020**. Defendant's reply, if any, is due by **Monday, July 20, 2020**.

The Clerk of Court is respectfully directed to close ECF Nos. 11 and 14.

SO ORDERED 11/19/19


SARAH L. CAVE
United States Magistrate Judge